

**In the United States District Court
For the Northern District of Mississippi
Aberdeen Division**

**The Chiropractic Neurology Center of Tupelo,
and others**

Plaintiffs

v.

Civil No. 1:15CV219-GHD-DAS

Dr. Michael Johnson, D.C., and others

Defendants

Affidavit of Ted Scott

**State of Tennessee
County of Shelby**

My name is Ted Scott. I have provided an expert report for the Plaintiffs in this case. I provide this testimony in response to opinions made by my counterpart on the Defendants' behalf.

I have read the report named "Expert Opinion of Brendan O'Connor," written by Dr. Michael Johnson's expert in this matter. Though informative, Mr. O'Connor's narrative pertaining to how sites and phpBB forums store passwords is incomplete in the context of my opinion and shows that he has mistaken the focus of my report. My intention with the opinion was to describe electronic bulletin boards in general, discuss their evolution and most importantly compare the Barlow and Johnson phpBB systems to "electronic communication services" identified in various legal cases that were explained by attorney Ken Coghlan.

I agree with Mr. O'Connor that where a systematic approach is taken to require users to select their own passwords through the phpBB interface that the passwords are stored and secured electronically in such a manner as to render them inaccessible to the forum Administrator. However, Mr. O'Connor does not address the possibility that the Administrator may enroll new users and solicit or assign the user's passwords. This was the case with my own enrollment in Dr. Barlow's Neuro Metabolic Group forum, whereby Mrs. Faye Barlow created a user profile and password on my behalf and provided them directly to me. I assumed, possibly incorrectly, that Dr. Johnson did the same thing given his testimony in the deposition transcript referenced in my report. As I explain below, Dr. Johnson's testimony is consistent with that conclusion.

Though it could be argued that administratively created credentials are less secure than allowing a user to enroll systematically, it in no way diminishes my point that, "Administrators of phpBB forums may setup new users with their username and password." (Scott Opinion, page 3). Where a systematic approach to enrolling new users is not applied, I continue to maintain that the Administrator would have direct access to and knowledge of any password they created on behalf of the users. Perhaps I was not as precise in my opinion about detailing the nuances between

systematic or administrator assigned passwords and hope that this addresses any confusion. I did not dwell on the systematic vs. administrator assigned passwords in my opinion because it was unnecessary. Mr. O'Connor's opinion does not address Dr. Johnson's deposition taken in *Johnson Chiropractic Neurology v. Chris Steiner*, Case No. 16-SC-170, in the Circuit Court of Brown County, Wisconsin where Dr. Johnson (1) testified he used the "log-in information" of other doctors without their consent to access Dr. Barlow's forum, stating, "they -- chiropractors are inherently lazy. They use the same password on both boards," and (2) agreed that because users had accessed his board, it was likely they used the same credentials to access Dr. Barlow's board. I assume for purposes of my opinion that Dr. Johnson was being truthful during his deposition and had obtained the credentials illicitly and without the users' express authorization. Dr. Johnson's admission to using stolen passwords to access Dr. Barlow's forum obviated the need for me to go into the level of detail that Mr. O'Conner took in explaining how phpBB passwords are stored.

That is whole of my testimony in this affidavit.


Ted Scott

Sworn to and subscribed before me this 31st day of May 2017.


NOTARY PUBLIC

My Commission expires:

3/17/20



(Print, Type or Stamp Commissioned
Name of Notary Public)

Personally known ☐ OR Produced Identification ☒

Type of Identification Produced: Drivers License